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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,707

10/26/2006

Oleg Shestakov

11884/477201

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01/20/2011

KENYON & KENYON LLP  
1500 K STREET N.W.  
WASHINGTON, DC 20005

EXAMINER

HAQ, NAEEM U

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

01/20/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,707	<b>Applicant(s)</b> SHESTAKOV ET AL.	
	<b>Examiner</b> NAEEM HAQ	<b>Art Unit</b> 3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27,28,32-36,40-43 and 47-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27, 28, 34, 35, 36, 42, 43, and 49-52 is/are rejected.
- 7) ☒ Claim(s) 32,33,40,41,47 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to the Applicants' amendment filed on November 4, 2010. Claims 1-26, 29-31, 37-39, and 44-46 have been canceled. Claims 27, 28, 32-36, 40-43, and 47-52 are pending and will be considered for examination.

Applicant's amendment is sufficient to overcome the rejection of claims 27-42 and 52 under 35 U.S.C. 101. This rejection is withdrawn.

### ***Claim Objections***

Claim 35 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. This claim is directed to computer-readable mediums having computer-executable instructions for performing the steps of claim 27. This claim is improper because they fail the "infringement test" (see MPEP 608.01(n), Section III). Applying the Infringement test, what is needed to infringe claim 35 is, for example a CD-ROM having computer executable code that if and when executed would cause a computer to do the steps recited in claim 27. However, such a CD-ROM would not infringe the method steps of claims 27 since the CD-ROM itself never performs any of the active steps required by the method of claims

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27. In other words, mere possession of such a CD-ROM would infringe claim 35, but would not infringe claim 27. As such claim 35 is improper dependent claims.

### ***Allowable Subject Matter***

Claim 32, 33, 40, 41, 47, and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 27, 28, 34, 35, 36, 42, 43, and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chessell et al. (US 7,472,379 B2) ("Chessell") in view of Wizig (US 6,735,569 B1).**

Chessell teaches a method for generating an automatic authorization of a shopping cart created during electronic procurement of items depending on at least one value stored in a database table, comprising: retrieving data from the database table, the data including a data representing a budget-value and a data representing a cumulative amount spent during a specified time period assigned to a user performing the electronic procurement; calculating a total value of the items in the shopping cart; comparing a sum of the value of the cumulative amount spent and the total value of the items in the shopping cart with the budget-value; wherein, if the sum is less than or equal to the budget-value, then generating the authorization, and updating the value of the cumulative amount spent by the total value of items in the shopping cart; wherein, if the sum is greater than the budget-value, then generating an indication indicating that the budget-value is exceeded (Figure 4; col. 7, lines 33-43).

Chessell does not teach that the retrieved data is retrieved from a first database table having organizational data objects and a second database table having personalized data objects, and the retrieved data retrieved from the first database table includes a user identification, a budget value set for the user, and a time period for the budget-value, and the retrieved data retrieved from the second database table includes a user identification, cumulative amount spent by the user, and a spending-date.

Wizig, on the other hand, teaches a method for providing users with healthcare services based their budgets, wherein a first and second database includes a user identification, a budget value set for the user, and a time period for the budget-value,

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cumulative amount spent by the user, and a spending-date (col. 17, lines 11-22; Figures 9-19 and 32).

Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Wizig into the invention of Chessell. One of ordinary skill in the art would have been motivated to do so in order to maintain the records the in separate databases for quick and easy retrieval.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAEEM HAQ whose telephone number is (571)272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Naeem Haq/  
Primary Examiner, Art Unit 3625

January 10, 2011